

JOHN GILBERT vs. APC NATCHIQ, INC.  
CASE NO.: 3:03-CV-00174-RRB

DEPOSITION OF CHRISTOPHER B. BOYLE  
JUNE 1, 2006

Page 42

Page 44

does hour-by-hour, minute-by-minute?

2 A Well, again, I just use that as an example.

3 Q Sure.

4 A It may be a more formal process that's applied given  
5 the position and the need to analyze individual  
6 functions.

7 Q Are you aware of any case in considering positions for  
8 classification where ACP -- APC did an hour-by-hour as  
9 it were analysis of what somebody did?

10 A Not that I'm aware of.

11 Q Okay. And, of course, you're aware that there's -- or  
12 at least there were two different sets of rules as to  
13 overtime, one under the state law, and one under the  
14 federal law?

15 A Yes.

16 Q Okay. And are the people in the field that made these  
17 exempt/non-exempt decisions aware of that?

18 A Yes, I believe.

19 Q Okay. They should be in any event?

20 A They should be.

21 Q Okay. APC kept some nature of time records for its  
22 employees, right? Time -- hours worked?

23 A Yes.

24 Q Okay. In this case I'd represent to you we've been  
25 provided with two sets of time logs for Mr. Gilbert.

1 MS. ZOBEL: Actually I don't believe that's  
2 correct.

3 MR. COVELL: Okay. That's not correct. Let  
4 me back -- I withdraw that question.

5 Q (By Mr. Covell) You've got some papers in front of  
6 you. What's the first number on the first page in  
7 front of you, sir?

8 A Forty-eight.

9 Q Okay. And what's the last number on the last page in  
10 front of you?

11 A Eighty-five.

12 MS. ZOBEL: No.

13 A Oh. 103.

14 Q All right. And I represent to you those were  
15 disclosed to me in Natchiq's 26(A) disclosure received  
16 by me around January 5th, 2004. Okay. All right. Do  
17 you know what those are?

18 A Not specifically. I can speculate that this top  
19 document, 0048, is some reference to time.

20 Q All right. Some nature of time....

21 A Yes.

22 Q .....record, right? And that reflects 10 hours a day  
23 consistently, is that right?

24 A Yes, there's a column, straight -- straight time  
25 hours, 10.

Page 43

Page 45

1 One set shows 10 hours a day consistently, and one set  
2 shows one day worked. Are you familiar with that?

3 A No, I'm not.

4 Q All right. Is that something that you would expect to  
5 see provided in this case?

6 A I can't comment on that. I don't know what documents  
7 you're referring to.

8 Q Okay. All right. Well, let me show you here.

9 COURT REPORTER: Would you like me to go off  
10 record for a moment?

11 MR. COVELL: Sure. That would.....

12 COURT REPORTER: All right.

13 (Off record)

14 (On record)

15 COURT REPORTER: We're back on record at 9:54.

16 Q (By Mr. Covell) Mr. Boyle, I've placed in front of  
17 you pages that are marked APC I believe 84 through --  
18 I don't know, there's another -- well, to....

19 MS. ZOBEL: It's 48.

20 Q Forty-eight to....

21 MS. ZOBEL: You're reading upside down.

22 Q .....to 84 is one style of documents, and then 85 to  
23 the end is another style of document.

24 A Okay.

25 Q Okay. Not -- actually not....

1 Q Okay. And it starts in January of -- or, no....

2 A September 2002 on this....

3 Q Okay.

4 A .....particular document.

5 Q All right. And there are pages and pages that are  
6 nearly identical to that, right?

7 A Yes.

8 Q All right. So it would appear that -- okay. Do you  
9 know if that -- all right. Let's look at the second  
10 set of papers, there -- for whatever -- any one of  
11 those.

12 A Any one?

13 Q Just say what number that is, if there is one. Of  
14 course, there isn't, right?

15 A I don't see a number.

16 MS. ZOBEL: No, there isn't. It's been out  
17 off.

18 Q (By Mr. Covell) All right. So go to the next page,  
19 try to keep those in order, please. The next one  
20 behind it or before it.

21 A We're looking for a number?

22 Q Sure.

23 MS. ZOBEL: Here's a number.

24 Q APC 114, okay? And that reflects one hour a day  
25 worked, right? Or, pardon me, one day worked per day

12 (Pages 42 to 45)

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Page 46	Page 48
<p>I guess.</p> <p>MS. ZOBEL: These are not in order, because we -- the last date is APC 103 that....</p> <p>MR. COVELL: Okay.</p> <p>MS. ZOBEL: .....you had him -- and this is 114, so....</p> <p>MR. COVELL: Okay.</p> <p>Q (By Mr. Covell) Apparently they're out of order, but in any event you're looking at 114. Does that also appear to be some nature of time record?</p> <p>A Yes. It's titled weekly time sheet.</p> <p>Q Okay. There you go. And as far as units per day worked, what does it indicate?</p> <p>A One.</p> <p>Q And would you take that to mean -- what would you take that to mean? One what?</p> <p>A I would assume that that represents the person worked on that particular day.</p> <p>Q Okay. So it's one -- would it be fair to say one day worked?</p> <p>A Yes.</p> <p>Q Okay. And it's not one hour worked, right? We wouldn't expect that?</p> <p>A No, at -- one of the -- I mean, the columns are titled days.</p>	<p>MS. ZOBEL: You're on page 87?</p> <p>Q Just pick one with a bunch of entries. Okay. And we're looking at page 87. Have you seen this document or a similar form of this document in this case before?</p> <p>A No.</p> <p>Q Okay. Do you see how, for instance, on Tuesday, August 6th, there's a 12 written here?</p> <p>A Yes.</p> <p>Q And then on the 7th, 13.5, and then on the 8th, 12, and then on the 9th, 14, and then on Saturday the 1st, 12, and on Sunday the 11th, 13?</p> <p>A Yes.</p> <p>Q All right. I represent to you that Mr. Gilbert says those are the hours he worked that day. And I had asked you if you had any records besides the ones we looked at in your disclosure that would indicate the hours he had worked when he worked for you?</p> <p>A Not that I'm aware of.</p> <p>Q Okay. And besides written records, do you have, or --</p> <p>MR. COVELL: Let me withdraw that.</p> <p>Q Does APC have any information that would contradict Mr. Gilbert's assertion he worked particular hours on particular days?</p> <p>A Not that I'm aware of.</p>
Page 47	Page 49
<p>Q Okay. All right.</p> <p>A Days worked. Or....</p> <p>Q All right. Besides those time records, are you aware of any other time records that APC might have for Mr. Gilbert?</p> <p>A Not that I'm aware of.</p> <p>Q Okay. Mr. Gilbert submitted what might be called a daily log that has an indication of hours worked per day, varying in the ranges of 11, 12, 13, 14 hours. Do you have any information that would dispute his representation that he worked those hours?</p> <p>A I have no seen the documents you're referring to, so really I can't comment on it.</p> <p>Q Okay. Would you like to? Would that be helpful in answering the question?</p> <p>A Yes.</p> <p>Q All right. So why don't we get this back here, and I'll get that out of your way.</p> <p>MR. COVELL: We're not going to mark that as an exhibit.</p> <p>Q Okay. I'm going to hand you what's in discovery entitled Plaintiff's Initial Disclosures, and I'll refer you to any number of these pages. Ms. Zobel has a copy there for you. Does that appear to be a day planner or log looking material?</p>	<p>Q Okay. Thank you. There we go, we're back to the other glasses.</p> <p>MR. COVELL: Why don't we go off for just a second.</p> <p>COURT REPORTER: Sure.</p> <p>(Off record)</p> <p>(On record)</p> <p>COURT REPORTER: All right. We're back on record at 10:04.</p> <p>Q (By Mr. Covell) Earlier we talked about your involvement in the case, and I think you said something to the extent of very little, and not -- or to be redundant, to be thorough, what do you have to do with this case?</p> <p>A I'm not sure.</p> <p>Q Okay. What have you done on this case so far?</p> <p>A Nothing.</p> <p>Q Okay.</p> <p>A Other than read my previous deposition.</p> <p>Q Have you been involved....</p> <p>A And I think I have worked with Counsel on documentation requests and discovery requests.</p> <p>Q Okay.</p> <p>A Although I don't even remember what -- what was generated, because most of the material had already</p>

13 (Pages 46 to 49)